

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL****No. 1318** Session of  
1991

INTRODUCED BY COWELL, HAYES, O'DONNELL, KOSINSKI, HERMAN,  
E. Z. TAYLOR, DALEY, STAIRS, KUKOVICH, FAJT, MARKOSEK,  
SALOOM, VROON, SERAFINI, LANGTRY, COLAIZZO, DEMPSEY,  
CAPPABIANCA, PRESTON, STABACK, SAURMAN, NAHILL, TRELLO,  
MELIO, MURPHY, STISH, TRICH, PESCI, GIGLIOTTI, LAUGHLIN,  
GANNON, MUNDY, TIGUE, COLAFELLA, LESCOVITZ, RUDY, ROEBUCK,  
BATTISTO, ITKIN, COY, CARONE, ROBINSON AND DAVIES,  
MAY 15, 1991

REFERRED TO COMMITTEE ON EDUCATION, MAY 15, 1991

## AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," further providing for the cost of  
6 tuition and maintenance of certain exceptional children.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Sections 1376 and 1376.1 of the act of March 10,  
10 1949 (P.L.30, No.14), known as the Public School Code of 1949,  
11 amended July 8, 1989 (P.L.253, No.43), are amended to read:

12 Section 1376. Cost of Tuition and Maintenance of Certain  
13 Exceptional Children in Approved Institutions.--(a) When any  
14 child between school entry age and twenty-one (21) years of age  
15 and resident in this Commonwealth, who is blind or deaf, or  
16 [afflicted with] who has cerebral palsy and/or brain damage  
17 and/or muscular dystrophy and/or is mentally retarded and/or

1 [socially and emotionally disturbed,] who has a serious  
2 emotional disturbance, and/or has autism/pervasive developmental  
3 disorder, and is enrolled, with the approval of the Department  
4 of Education, as a pupil in an approved private school [for the  
5 blind or deaf, or cerebral palsied and/or brain damaged and/or  
6 muscular dystrophied and/or mentally retarded, and/or socially  
7 and emotionally disturbed,] approved by the Department of  
8 Education, in accordance with standards and regulations  
9 promulgated by the State Board of Education, the school district  
10 in which such child is resident shall pay the greater of either  
11 twenty per centum (20%) of the actual audited cost of tuition  
12 and maintenance of such child in such school, as determined by  
13 the Department of Education, or its "tuition charge per  
14 elementary pupil" or its "tuition charge per high school pupil,"  
15 and the Commonwealth shall pay, out of funds appropriated to the  
16 department for special education, the balance due for the costs  
17 of such child's tuition and maintenance, as determined by the  
18 department in accordance with subsection (c). For the school  
19 years 1989-1990, 1990-1991 and 1991-1992, the school district  
20 payment shall be no greater than forty percent (40%) of the  
21 actual audited costs of tuition and maintenance of such child in  
22 such school. The department will credit the district of  
23 residence with average daily membership for such child  
24 consistent with the rules of procedure developed in accordance  
25 with section 2501. If the residence of such child in a  
26 particular school district cannot be determined, the  
27 Commonwealth shall pay, out of moneys appropriated to the  
28 department for special education, the whole cost of tuition and  
29 maintenance of such child[. The Department of Education shall be  
30 provided with such financial data from approved private schools

1 as may be necessary to determine the reasonableness of costs for  
2 tuition and room and board concerning Pennsylvania resident  
3 approved reimbursed students. The Department of Education shall  
4 evaluate such data and shall disallow any cost deemed  
5 unreasonable. Any costs deemed unreasonable by the Department of  
6 Education for disallowance shall be considered an adjudication  
7 within the meaning of Title 2 of the Pa.C.S. (relating to  
8 administrative law and procedure) and regulations promulgated  
9 thereunder.] in accordance with subsection (c).

10 (b) When any person less than school entry age or more than  
11 twenty-one (21) years of age and resident in this Commonwealth,  
12 who is blind or deaf, or [afflicted with] has cerebral palsy  
13 and/or has brain damage and/or has muscular dystrophy, or has  
14 autism/pervasive developmental delay, and is enrolled, with the  
15 approval of the Department of Education, as a pupil in an  
16 approved private school [for the blind or deaf, or cerebral  
17 palsied and/or brain damaged and/or muscular dystrophied,]  
18 approved by the Department of Education, the Commonwealth shall  
19 pay to such school, out of moneys appropriated to the department  
20 for special education[, the actual audited cost of tuition and  
21 maintenance of such person, as determined by the Department of  
22 Education, subject to review and approval in accordance with  
23 standards and regulations promulgated by the State Board of  
24 Education, and in addition,] in accordance with subsection (c),  
25 including, in the case of any child less than school entry age,  
26 who is blind, the cost, as determined by the Department of  
27 Education of instructing the parent of such blind child in  
28 caring for such child.

29 [(c) Each approved private school, prior to the start of the  
30 school year, shall submit to the department such information as

1 the department may require in order to establish an estimate of  
2 reimbursable costs. Based upon this information, any other data  
3 deemed necessary by the department and in accordance with  
4 department standards, the department shall develop for each  
5 approved private school an estimate of reimbursable costs. Based  
6 upon such estimate, the department shall provide each approved  
7 private school with quarterly payments in advance of department  
8 audit. The department may withhold a portion of such payments  
9 not exceeding five percent (5%) of such payment, pending final  
10 audit. In no event shall either the advance payments or final  
11 reimbursement made by the department following audit exceed the  
12 appropriation available for approved private schools.]

13 (c) The procedures for the development of pre-approved  
14 budgets for approved private schools shall be as follows:

15 (1) On or before August 30 of the school year previous to  
16 the school year of operation, each approved private school shall  
17 submit to the Department of Education a program plan and budget  
18 which specifies in detail the special education services to be  
19 provided to approved residents of this Commonwealth. These  
20 estimates shall form the preliminary estimate of the approved  
21 private school's line item in the department's budget.

22 (2) On or before November 15 of the school year previous to  
23 the school year of operation, each approved private school shall  
24 submit any revisions to their August estimated program plan and  
25 budget.

26 (3) By February 1 of the school year previous to the school  
27 year of operation, the department shall review the detailed  
28 program plans and budgets and discuss modifications with each  
29 approved school.

30 (4) Between February 1 and April 15 of the school year

1 previous to the school year of operation, the department shall  
2 meet with each approved private school to negotiate a pre-  
3 approved budget for the following school year. These pre-  
4 approved budgets shall form the basis for adjustments to the  
5 approved private school's line item in the General  
6 Appropriations act for the next fiscal year.

7 (5) On or before January 31 of the school year of operation,  
8 each approved private school may submit a request for program  
9 plan and/or budget modifications to the department. The  
10 department shall respond in writing to the request for  
11 modification within thirty (30) days of the receipt of such  
12 request. The department may approve, reject or approve in part  
13 the requested modifications.

14 (6) Based upon the approved budget, the department shall  
15 provide each approved private school with quarterly payments  
16 during the year of operation of the program. The department may  
17 withhold a portion of such payments not exceeding five per  
18 centum (5%) of such payment pending final audit. Under no  
19 circumstances shall either the advance payments or final  
20 reimbursement made by the department following audit exceed the  
21 appropriation available for approved private schools.

22 (7) An independent audit report for the preceding fiscal  
23 year which is consistent with department audit standards shall  
24 be submitted by each approved private school to the department  
25 no later than one hundred twenty (120) days after the close of  
26 the preceding fiscal year. The department shall review each  
27 audit and make a determination of its acceptance. Such  
28 determination shall be communicated in writing to the approved  
29 private school within one hundred twenty (120) days of its  
30 receipt; otherwise, the audit shall be deemed to be approved and

1 accepted. The determination of acceptance shall be considered an  
2 adjudication within the meaning of 2 Pa.C.S. (relating to  
3 administrative law and procedure) and regulations promulgated  
4 thereunder. Final payment to the approved private school shall  
5 be made within ninety (90) days of acceptance of the audit by  
6 the department.

7 (d) No private institution receiving payment in accordance  
8 with this section shall impose any charge on the student and/or  
9 parents who are Pennsylvania approved reimbursable residents for  
10 a program of individualized instruction and maintenance  
11 appropriate to the child's needs; except that charges for  
12 services not part of such program may be made if agreed to by  
13 the parents.

14 Section 1376.1. Actual Cost of Tuition and Maintenance of  
15 Certain Exceptional Children in the Four Chartered Schools for  
16 Education of the Deaf and the Blind.--(a) The following term,  
17 whenever used or referred to in this section, shall have the  
18 following meaning. "Chartered school" shall mean any of the four  
19 (4) chartered schools for the education of the deaf or the  
20 blind: the Pennsylvania School for the Deaf; the Overbrook  
21 School for the Blind; the Western Pennsylvania School for Blind  
22 Children; and the Western Pennsylvania School for the Deaf.

23 (b) When any child of school age resident in this  
24 Commonwealth, who is blind or deaf, is enrolled with the  
25 approval of the Department of Education as a pupil in any of the  
26 four (4) chartered schools in accordance with standards and  
27 regulations promulgated by the State Board of Education, the  
28 school district in which such child is resident shall pay the  
29 greater of either twenty percent (20%) of the actual cost of  
30 tuition and maintenance of such child in such institution, as

1 determined by the Department of Education in accordance with  
2 subsection (e); or its "tuition charge per elementary pupil" or  
3 its "tuition charge per high school pupil," and the Commonwealth  
4 shall pay, out of funds appropriated to the department for  
5 special education, the balance due for the costs of such child's  
6 tuition and maintenance, as determined by the department in  
7 accordance with subsection (e). For the school years 1989-90,  
8 1990-91 and 1991-92, the school district payment shall be no  
9 greater than forty percent (40%) of the actual audited costs of  
10 tuition and maintenance of such child in such school. The  
11 department will credit the district of residence with average  
12 daily membership for such child consistent with the rules of  
13 procedure developed in accordance with section 2501. If the  
14 residence of such child in a particular school district cannot  
15 be determined, the Commonwealth shall pay, out of moneys  
16 appropriated to the department for special education, the whole  
17 cost of tuition and maintenance of such child. [The Department  
18 of Education shall be provided with such financial data from  
19 each of the chartered schools as may be necessary to determine  
20 the reasonableness of charges for tuition and room and board of  
21 each of the chartered schools made on Pennsylvania resident  
22 approved students. The Department of Education shall evaluate  
23 such data and shall disallow any charges deemed unreasonable.  
24 Any charge deemed unreasonable by the Department of Education  
25 for disallowance shall be considered an adjudication within the  
26 meaning of Title 2 of the Pa.C.S. (relating to administrative  
27 law and procedure) and regulations promulgated thereunder.]

28 (c) When any person less than school age resident in this  
29 Commonwealth who is blind or deaf is enrolled, with the approval  
30 of the Department of Education, as a [residential] pupil in any

1 of the four (4) chartered schools, the Commonwealth shall pay to  
2 the school, out of moneys appropriated to the department for  
3 special education, the actual cost of tuition and maintenance of  
4 such person, as determined [by the Department of Education,  
5 subject to review and approval in accordance with standards and  
6 regulations promulgated by the State Board of Education, and in  
7 addition,] in accordance with subsection (e), including, in the  
8 case of any child less than school age, who is blind, the cost,  
9 as determined by the Department of Education of instructing the  
10 parent of such blind child in caring for such child.

11 (d) None of the chartered schools receiving payment in  
12 accordance with this section shall impose any charge on the  
13 student and/or parents who are approved reimbursable residents  
14 for a program of instruction and maintenance appropriate to the  
15 child's needs; except that charges for programs not part of the  
16 normal school year may be made.

17 (e) The procedures for the development of pre-approved  
18 budgets for chartered schools shall be as follows:

19 (1) On or before August 30 of the school year previous to  
20 the school year of operation, each chartered school shall submit  
21 to the Department of Education a program plan and budget which  
22 specifies in detail the special education services to be  
23 provided to approved residents of this Commonwealth. These  
24 estimates will form the preliminary estimate of the chartered  
25 school's line item in the department's budget.

26 (2) On or before November 15 of the school year previous to  
27 the school year of operation, each chartered school shall submit  
28 any revisions to their August estimated program plan and budget.

29 (3) By February 1 of the school year previous to the school  
30 year of operation, the department shall review the detailed



1 program plans and budgets and discuss modifications with each  
2 chartered school.

3 (4) Between February 1 and April 15 of the school year  
4 previous to the school year of operation, the department shall  
5 meet with each chartered school to negotiate a pre-approved  
6 budget for the following school year. These pre-approved budgets  
7 will form the basis for adjustments to the chartered school's  
8 line item in the General Appropriations act for the next fiscal  
9 year.

10 (5) On or before January 31 of the school year of operation,  
11 each chartered school may submit a request for program plan  
12 and/or budget modifications to the department. The department  
13 shall respond in writing to the request for modification within  
14 thirty (30) days of the receipt of such request. The department  
15 may approve, reject or approve in part the requested  
16 modifications.

17 (6) Based upon the approved budget, the department shall  
18 provide each chartered school with quarterly payments during the  
19 year of operation of the program. The department may withhold a  
20 portion of such payments not exceeding five per centum (5%) of  
21 such payment pending final audit. Under no circumstances shall  
22 either the advance payments or final reimbursement made by the  
23 department following audit exceed the appropriation available  
24 for chartered schools.

25 (7) An independent audit report for the preceding fiscal  
26 year which is consistent with department audit standards shall  
27 be submitted by each chartered school to the department no later  
28 than one hundred twenty (120) days after the close of the  
29 preceding fiscal year. The department shall review each audit  
30 and make a determination of its acceptance. Such determination

1 shall be communicated in writing to the chartered school within  
2 one hundred twenty (120) days of its receipt; otherwise, the  
3 audit shall be deemed to be approved and accepted. The  
4 determination of acceptance shall be considered an adjudication  
5 within the meaning of 2 Pa.C.S. (relating to administrative law  
6 and procedure) and regulations promulgated thereunder. Final  
7 payment to the chartered school shall be made within ninety (90)  
8 days of acceptance of the audit by the department.

9 Section 2. This act shall take effect July 1, 1991.